

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Timothy D. Dotson, :
Petitioner : Case No. 2:08-00395
v. : Judge Smith
N. Edward Lane, Jr., et al., : Magistrate Judge Abel
Respondents :
:

ORDER

Petitioner Timothy D. Dotson, a prisoner at the Chillicothe Correctional Institution, brought this action which he characterized as a civil rights complaint under 42 U.S.C. § 1983, but which the Magistrate Judge treated as a petition for writ of habeas corpus under 28 U.S.C. §2254. This matter is before the Court on Lane's May 20, 2008 objections to Magistrate Judge Abel's May 13, 2008 Report and Recommendation that this action is barred by the one year statute of limitations created by 28 U.S.C. §2244(d)(1).

Upon *de novo* review in accordance with the provisions of 28 U.S.C. §636(b)(1)(B), the Court **ADOPTS** the Report and Recommendation. The petition alleges that the Common Pleas Court was without jurisdiction when Lane pleaded guilty on December 21, 1989 to an information charging him with two counts of sexual imposition and one count of gross sexual imposition. The petition further alleges that the convictions were obtained by fraud. Since Lane challenges the fact or duration of his confinement, his

sole federal remedy is habeas corpus. *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973); *Heck v. Humphrey*, 512 U.S. 477, 787 (1994); *Edwards v. Balisok*, 520 U.S. 641 (1997). And his habeas corpus petition is barred by the one year statute of limitations under 28 U.S.C. §2244(d)(1).

The Clerk of Court is **DIRECTED** to enter **JUDGMENT** for respondent. This action is hereby **DISMISSED** as barred by the one year statute of limitations under 28 U.S.C. §2244(d)(1).

s/ George C. Smith
George C. Smith
United States District Judge